

EXPENSE DELAY

Supreme Court Decision of Interest to Shippers.

MERCHANT WAS DAMAGED

RESULT OF DELAY IN SHIPPING GOODS.

Cost An Omaha Firm Almost the Value of the Goods—Division of the Madden Estate—Griffin Contempt Case Transferred—Several Suits Filed in District Court.

Justice Barich and Baslin of the supreme court yesterday handed down an opinion in the case of M. E. Smith & Co., appellants, vs. Peter A. Droubay, affirming the judgment of the lower court in finding the issues for defendant upon his cross-complaint for damages sustained by plaintiff for breach of contract. Judge Miner dissented from the opinion.

From the record it appeared that plaintiff sued for recovery of \$965 on a bill of goods sold in August, 1937, but defendant set up a cross-complaint for damages sustained by reason of plaintiff's not shipping the goods within the time agreed. The lower court deemed the claim for damages for breach of contract a valid one and entered judgment for plaintiff in the sum of \$50. From this finding plaintiff appealed.

DIVIDING MADDEN'S ESTATE.

Method of Father Kiely to Terminate a Trustship.

In 1932 Thomas Madden entrusted \$1,000 to Father Dennis Kiely for investment, and shortly after Madden left here. Since that time nothing has been heard from the priest. Madden's father, Kiely, induced Madden's sisters and only living heirs, Catherine Dowling and Ann Burton of San Francisco, to institute a friendly suit to legally determine the ownership of the fund which had increased to \$1,430. During the pendency of the suit it was ascertained that Madden died last July. The action was tried before Judge Hiles a few weeks ago, Edward McGurran being attorney for Father Kiely.

Yesterday Judge Hiles handed down a decision, decreeing that after retaining \$150 for the expenses of the trust, the fund should be divided equally between Madden's sisters.

SERVICE UPON TIBBEY.

Damage Suit From Butte Filed in Third District Court.

Suit was commenced in the district court yesterday by Thomas J. Lewis against the Kenyon-Connell Commercial company of Butte to recover damages in the sum of \$20,000 for the killing of his son, Thomas J. Lewis, a member of the Butte fire department during the big fire and powder explosion in that city on Tuesday, September 12, 1938. The suit was filed in the district court by Lewis, a trustee of the Kenyon-Connell company, is now a resident of this city, and the papers in the case were filed in the court for the purpose of getting service upon Tibbey.

BONDSMEN SUED.

Landlord For Tenant and Sureties For Unlawful Detention.

The Savings & Loan society, by Hugh Anderson, its resident agent, yesterday entered suit in the district court against Ed M. Fox and his sureties, W. Duncan and W. H. Atwood, to recover a balance of \$108 on a judgment for rent of premises at 345 West Second south street from Fox, for wrongful detention of premises and for possession of the building.

TO FORECLOSE LOANS.

D. W. Hunter and Wife Defendants in a Mortgage Transaction.

Edwin Pettit for himself and on behalf of his assignors, W. F. Nealen and Edward H. Morris, yesterday commenced an action in the district court against Daniel W. Hunter and Celestia W. Hunter to foreclose on a mortgage note aggregating \$1,630, interest and \$150 attorney's fees. The note was secured by mortgage upon lots in the south-east division and foreclosure of the securities is prayed for.

VERDICT FOR PLAINTIFF.

Four-year-old Damage Suit Goes Against Street Car Company.

In the damage suit of Caroline Four-year-old vs. the Salt Lake City Railroad company, Judge J. H. Griffin yesterday returned a verdict of \$250 in plaintiff's favor. The suit was brought originally in Justice Timmony's court, but was transferred to the district court for personal injuries alleged to have been received while boarding a street car last March. Judgment was given in favor of the plaintiff, and the defendant appealed. The defense set up the plea of contributory negligence.

CONTEMPT CASE GOES OVER.

Judge Hiles Refuses to Hear the Griffin Case.

The hearing upon the order to show cause why Jacob H. Griffin should not be punished for contempt in failing to pay his divorced wife the amount of money due her was yesterday transferred by Judge Hiles to Judge Cherry's court and the date of hearing postponed till next Saturday. Judge Hiles said once before refusing to hear a motion in this case on account of a stirring remark made to the bench by Attorney J. M. Kane of defendant's counsel.

Information Against Marohn.

An information was filed by the county attorney yesterday against Fred F. Marohn, charged in having committed the crime of larceny in having on Oct. 5 appropriated to himself the sum of \$100 from Waterman Bros., the mining stock and loan brokers. The criminal charge was the result of a transaction between complainant and defendant. Marohn will be arraigned to plead today or tomorrow.

Constant West Loos.

The jury in the case of John P. Cannon et al. vs. Byron E. West, constable.

RETRIBUTION

Replicas to Recent False and Malicious Statements.

EIGHT-HOUR TROUBLES

NO ITALIAN MINERS HAVE BEEN IMPORTED.

Mr. McCune Has No Connection Whatever With the Management of the Payne Mine—Abused by Canadian Agitator Because He Is An American—Mine Closed Down.

Pleas of Not Guilty.

Pleas of not guilty were taken yesterday by Judge Cherry from the following defendants:

Alfred Hunter, accused of petit larceny; George Davis, burglary; William Hughes, housebreaking, two offenses; O. P. Soule, substituted for George N. Lawrence as attorney for Hughes on the charge of burning brick into the house of W. J. Durham, 245 West Sixth North street.

Before Judge Cherry.

A. C. Ewing vs. J. R. Walker et al.; continued pending negotiations for settlement.

Criminal Cases to Be Set.

Tomorrow is the time agreed upon by County Attorney Putnam when Judge Cherry is to make a setting of criminal cases for trial by Judge Norrell after Nov. 21.

Today's Calendar.

The following cases are set for trial today before Judge Hiles:

Frederick H. Hanson vs. Milando

Mary J. Ferguson vs. Isaac Ferguson.

Before Judge Cherry and a jury the case of the Rio Grande Western Railway company vs. the Salt Lake City Water & Electric Power company is set for trial.

BANKRUPTCY POINT DECIDED

IMPORTANT OPINION FROM JUDGE MARSHALL.

Bankruptcy Trustee Cannot Bring Suit to Quiet Title in the Federal Court—Federal Court Notes.

Judge Marshall delivered an important opinion affecting the bankruptcy court yesterday in order to determine the authority of the provincial parliament to draft the legislation that has caused so much trouble between labor and capital.

The opinion states that the bankruptcy court cannot bring a suit to quiet title in the federal court. The opinion also states that the bankruptcy court cannot bring a suit to quiet title in the federal court.

STATEMENTS WERE TRUE.

Commenting on this, Mr. McCune said:

"I never met McCune on this trip, did not go within 150 miles of him, did not communicate with him, and did not intend to. But this item in the Spokane paper is taken as the basis of the attack made upon me by the Nelson Tribune and quoted with such glibness by its prototype in Salt Lake. No representative of the Nelson paper came near me while I was there, although the editor has never ceased to denounce me as an American capitalist, there for the purpose of carrying off their wealth to build a palace in Salt Lake. The editor is an agitator who injures the cause of labor much more than he aids it. I have employed large bodies of men for many years, as high as from 500 to 1,000 at a time, and I have never had trouble with any of my men."

Cause of the Trouble.

The difficulty in British Columbia, Mr. McCune says, is that the provincial assembly has enacted an eight-hour law which prevents men from working over eight hours a day. The mine owners were paying \$3.50 per day for ten hours' work; if the hours were reduced they proposed to reduce the wages correspondingly. This was objected to and hence the strife. Mr. McCune thought the constitutionality of the law would be tested in the fact that the miners were petitioning for its repeal on the grounds that the better pay for ten hours was a greater inducement than the two hours extra idle time.

Development of the Watska.

The work on the Watska mine in Montana, Mr. McCune says, is going forward satisfactorily. They have in place now a 350-horse power engine, a big pump, and are certain of developing large bodies of good ore when they get the water under control, which is now a certainty. At Deer Lodge they have already expended \$100,000 in the development of the mine, and expect to expend \$100,000 before spring, when they will be ready for business.

RAILROAD DAMAGE SUIT.

Mrs. Yeager Sues the Southern Pacific For \$50,000.

Katie Yeager, through her attorneys, R. W. White and Zane & Rogers, has commenced suit in the United States court to recover \$50,000 and \$500 damages from the Southern Pacific Railroad company. The complaint alleges that T. J. Yeager, her husband, was killed by a train of the Southern Pacific Railroad on February 19, 1929, when a rear end collision occurred between his train and a helper engine, his train being struck.

FEDERAL COURT NOTES.

Oscar H. Lipp was yesterday appointed United States commissioner at White River, Utah county.

In the case of the state of Utah vs. the Bear River Canal & Irrigation company, the court held that the cost bill was sustained.

James M. Shaw vs. Wells, Fargo & Co., a recovery of \$200 damages for false imprisonment; demurrer to complaint on the ground that it does not state facts sufficient to constitute a cause of action sustained and ten days given to amend.

Louis K. Haden was yesterday discharged in bankruptcy.

Dr. H. H. Haden, Summit Lake, says: "I think Kodol Dyspepsia Cure is a splendid medicine. I prescribe it, and my confidence in it grows with continued use." It digests what you eat and quickly cures dyspepsia and indigestion. F. C. Schramm, Prescription Druggist, McCormick block.

NEW ST. JAMES.

The Leading Medium Priced Hotel.

DENVER.

PROCESSION OF PENITENTS

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CROSBY CASE ON TRIAL.

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The defense is alleged to have committed with one Mrs. Lydia Winters, a married woman of M. Tassart, who was here on a visit last July. On the evening of the 16th of June the two were seen walking arm in arm and one of the state's witnesses put it: "We had heard so much about Crosby going out with other men wives that we decided to watch and see what he would do."

Charles contended that as he walked right in to see Pete after he had been discharged, he was no thief. He had had a good time, yes, but would have had a better one if he had not interrupted him.

Thirty days was his lot.

"Charles Thomas,"

"This man was also drunk," said the clerk.

"I don't know," said Charles. "I could walk."

"Could he?" to Officer Burt.

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Holahan was not used to Salt Lake or its products.

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"An eminent legal authority has advised the management of the Payne mine that the eight-hour law is unconstitutional. In all likelihood a test case will be made in order to determine the authority of the provincial parliament to draft the legislation that has caused so much trouble between labor and capital."

The court understood. He did not ask the patrolman to recount the discovery of forty hobs wrapped up in perfects, but turned to George, who looked like a lamb being led to the slaughter.

"If I take it, it was my last offense," he insisted, "allegedly."

"Just got out, didn't you?" demanded Diehl.

"Well, Mister Judge, I my fine was paid Saturday, if that's what you call him."

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"Your honor," said Diehl, "Mike is being carried by a deputy sheriff to the residence part of town. He annoys people, you know."

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"Mike, I'm surprised. Forty days."

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"That is the only reason I'll send you there," said Judge Timmony. "I believe you are a man."

Tupper was sentenced to twenty-five days, during which time Jailor Kimball will make a new man of him.

Arthur Meyer, John Magennetti and Stewart Harris, ages 9, 8, and 11, were arraigned for breaking into J. J. Gallacher's trunk factory, 268 South Main street, and stealing \$100 worth of goods. Their father made a statement to the effect that his boy had been led by Magennetti, and Meyer's father stated that he had had no trouble with Arthur recently until he started to associate with young Harris.

The court held that no good could be accomplished by moralizing with Meyer and Magennetti, who have been up to the same tricks many times before.

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Harris, this being his first appearance, was sent home, the other two boys being held to the district court in bonds of \$500 each.

Joseph E. Taylor, a counselor to the presidency of the Salt Lake stake of Zion, is the second member of that organization to plead guilty in recent months to a charge of unlawful cohabitation, the first being Angus M. Cannon, who was the first prosecuted by C. M. Owen.

Taylor appeared yesterday morning before Judge Cherry for arraignment upon the county attorney's information charging him with having unlawfully cohabited with Clara Taylor and Lizzie Taylor, the latter being his plural wife. The accused by his attorney, F. S. Richards, waived the reading of the information and entered a plea of guilty.

The court held that the client's readiness to receive sentence, at once, but Judge Cherry ordered defendant to appear for sentence on Wednesday, the 22nd instant, before Judge Norrell. Judge Cherry remarked that he did not care to interfere with Judge Norrell's method of disposing of criminal cases any further than to take a prisoner's plea.

If the same penalty is imposed as in the Cannon and Grant cases Mr. Taylor will be fined \$100.

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